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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,239	04/30/2002	William Webster Thompson	X-12636	2652

25885 7590 03/09/2004

ELI LILLY AND COMPANY  
PATENT DIVISION  
P.O. BOX 6288  
INDIANAPOLIS, IN 46206-6288

EXAMINER

MAIER, LEIGH C

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/048,239

Applicant(s)

THOMPSON ET AL.

Examiner

Leigh C. Maier

Art Unit

1623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☒ Applicant's reply has overcome the following rejection(s): none.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

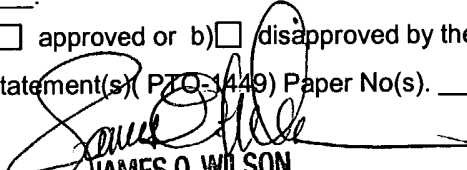
Claim(s) allowed: none.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 2-4, 8-10, 12, 13 and 16.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See attached remarks.

  
JAMES O. WILSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

Leigh C. Maier  
Examiner  
Art Unit: 1623

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### DETAILED ACTION

Applicant's discussion regarding the difference between a "dispersant" and a "surfactant" is noted. It appears that Applicant infers that it is the position of the examiner that surfactant=dispersant. This is not the case. The final rejection noted that the reference taught compounds that were defined by Applicant as "dispersants" but called them "surfactants." The component in Example 13C (naphthalenesulfonate salt) is called a surfactant in the reference. Regardless of the difference in nomenclature, this component still meets Applicant's definition of a dispersant. Furthermore, one of Applicant's preferred dispersants, ATLOX 4913, is called a *surfactant* in BRYMAN et al (US 5,886,188). See Example 2. This does not change the inherent properties of the component.

Regarding the weight ratios, the examiner maintains that in the absence of unexpected results, the overlap in ranges presents a prima facie case for obviousness.

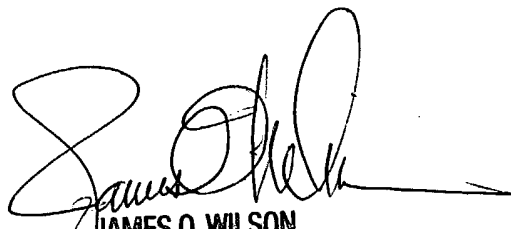
#### *Examiner's hours, phone & fax numbers*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh Maier whose telephone number is (571) 272-0656. The examiner can normally be reached on Tuesday, Wednesday, and Friday 7:00 to 3:30 (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson (571) 272-0661, may be contacted. The fax number for Group 1600, Art Unit 1623 is (703) 308-4556 or 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-1235.

Leigh C. Maier  
Patent Examiner  
March 5, 2004

  
JAMES O. WILSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600